

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-116-MOC**

JO'SHON NANCE,)	
)	
Plaintiff,)	
)	
vs.)	
)	
FACEBOOK, et al.,)	ORDER
)	
Defendants.)	
)	

THIS MATTER is before the Court sua sponte.

The pro se incarcerated Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983.

[Doc. 1]. He paid the full filing fee.¹ [See July 10, 2023 Docket Entry]. The Court dismissed the Complaint on initial review and the Court granted the Plaintiff 30 days to amend. [Doc. 9]. He was cautioned that, “[s]hould Plaintiff fail to timely amend his Complaint in accordance with this Order, the Court will dismiss this action without further notice.” [Id. at 3].

The Plaintiff has failed to file a superseding Amended Complaint and the time to do so has expired. The Plaintiff appears to have abandoned this action and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962)

¹ On October 18, 2023, an undated Letter was docketed stating that the Plaintiff “NEVER filed this Complaint some else illegally put my name on this Complaint as if they were me and it cost me \$350 dollars....” [Doc. 10 at 1] (errors uncorrected). The Court will not rule on this Letter. [See Doc. 3 at ¶ 5 (Order of Instructions stating that “Letters sent to the Clerk of Court or Judge will not be answered. Only Motions will be ruled on by the Court.”)]. Should the Plaintiff choose to seek relief via a properly filed motion, he should provide the Court with prison mail log records or other materials to substantiate his claim that he did not file this action.

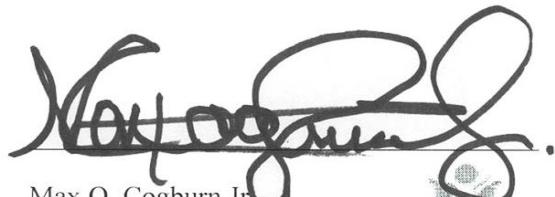
(although Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE.**

IT IS FURTHER ORDERED that the Clerk of Court is directed to terminate this action.

The Clerk is respectfully instructed to mail to the Plaintiff copies of this Order, the docket sheet, and the Order of Instructions [Doc. 3].

Signed: November 20, 2023



Max O. Cogburn Jr.
United States District Judge